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10/688,213

10/15/2003

Patrice Gautier

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TECHNOLOGY & INNOVATION LAW GROUP, PC

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EXAMINER

SEE, CAROL A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/688,213	Applicant(s) GAUTIER ET AL.	
	Examiner Carol See	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 38, 42-47, 56 and 62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 62 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to claim 62, it is directed to computer software, embodied in a tangible medium or in a propagated carrier signal or both. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. The specification defines a medium to include carrier waves; therefore, when the claims are read in light of the specification, a rejection under 35 U.S.C. 101 is proper.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-12, 14-18, 21-25, 42-47, 56 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Fleming (U.S. 5,953,710).

As to claim 1, Fleming shows a method for transferring an amount of money to a recipient account associated with a recipient (col. 10, lines 43-47), said method comprising:

receiving an allowance request from a user indicating a request to set up an allowance for a recipient, the allowance representing an amount of money being made available by the user to the recipient (col. 14, lines 45-50); and

receiving an allowance increment or selection of an allowance increment, the allowance increment indicating an amount of money to be transferred to the recipient account on a periodic basis (col. 14, lines 45-57).

Applicant's recitation of "for use by the recipient for purchase of goods over a network" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Further, Applicant's recitation of "for purchase of one or more items over the network" in the body of the claim is also not accorded any patentable weight for the reasons cited above.

As to claim 4, Fleming shows all elements of claim 1. Fleming further shows receiving, over the network, a selection of a period of time after expiration of

which the allowance increment is to be transferred to the recipient account, wherein the allowance increment is to be transferred to the recipient account each time the period of time expires (col. 14, lines 55-58).

As to claim 5, Fleming shows all elements of claim 4. Fleming further shows modifying the period of time, thereby updating the allowance that has previously been set up for the recipient (col. 14, lines 58-60).

As to claim 6, Fleming shows all elements of claim 4. Fleming further shows the period of time is a week or a month (col. 19, line 58).

As to claim 7, Fleming shows all elements of claim 1. Fleming further shows the allowance increment is to be transferred from a user account associated with the user to the recipient account on a periodic basis (col. 14, lines 45 – 58).

As to claim 8, Fleming shows all elements of claim 1. Fleming further shows the allowance increment is to be transferred from a credit card associated with the user to the recipient account on a periodic basis (col. 10, lines 43-47 and col. 14, lines 57-58 showing use of invention for allowances transfer on periodic basis).

As to claim 9, Fleming shows all elements of claim 8. Fleming further shows credit card information associated with the credit card is established in association with a user account of the user (col. 6, lines 7-10 and 20-28).

As to claim 10, Fleming shows all elements of claim 8. Fleming further shows crediting the recipient account with the allowance increment and charging the credit card associated with the user (col. 10, lines 43-47).

As to claim 11, Fleming shows all elements of claim 1. Fleming further shows credit

card information of the recipient not being stored in association with the recipient account (col. 3, lines 35-36 and col. 4, lines 52-53, referencing recipient having a debit card and the supervision of that card's use using the same system as for a credit card). Accordingly, if the recipient's account is a debit account, then that debit account information is stored.

As to claim 12, Fleming shows all elements of claim 1. Fleming further shows a username and password stored in association with the recipient account (col. 6, lines 20-23, 37-38 and Fig. 2, element 28).

As to claim 14, Fleming shows all elements of claim 1. Fleming further shows the recipient account identified by a username or email address (col. 6, lines 20-23 and Fig. 2, element 28).

As to claim 15, Fleming shows all elements of claim 1. Fleming further shows receiving an identifier associated with the recipient account (col. 10, lines 20-23).

As to claim 16, Fleming shows all elements of claim 15. Fleming further shows where the identifier is a username or email address (col. 10, lines 20-23).

As to claim 17, Fleming shows all elements of claim 1. Fleming further shows receiving an identifier associated with the recipient account or creating the recipient account (col. 6, lines 43-44).

As to claim 18, Fleming shows all elements of claim 1. Fleming further shows creating the recipient account (col. 6, lines 43-44).

As to claim 21, Fleming shows all elements of claim 1. Fleming further shows the user having a user account associated therewith, wherein the user account is separate

from the recipient account (col. 3, lines 11-14).

As to claim 22, Fleming shows all elements of claim 21. Fleming further shows the user is a first individual and the recipient is a second individual (col. 3, lines 11-14).

As to claim 23, Fleming shows all elements of claim 22. Fleming further shows the user is a parent and the recipient is a child of the parent (col. 3, lines 11-14).

As to claim 24, Fleming shows all elements of claim 21. Fleming further shows the user account is a parent account and the recipient account is a sub-account of the parent account (col. 3, lines 11-15).

As to claim 25, Fleming shows all elements of claim 24. Fleming further shows the recipient can view information associated with the sub-account, but cannot view information associated with the parent account (col. 7, lines 25-37 and Fig. 2A depicting parent statement as including parent and child, and child statement relating only to child's transactions).

As to claim 42, Fleming shows all elements of claim 1. Fleming further shows transferring an amount of money equal to the allowance increment to the recipient account (col. 14, lines 47-55).

As to claim 43, Fleming shows all elements of claim 42. Fleming further shows automatically repeating the transferring step on a periodic basis (col. 14, lines 50-51).

As to claim 44, Fleming shows all elements of claim 1. Fleming further shows receiving a request to update the allowance for the recipient (col. 14, lines 47-51).

As to claim 45, Fleming shows all elements of claim 44. Fleming further shows receiving a request to discontinue the allowance for the recipient (col. 14, lines 58-60).

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As to claim 46, Fleming shows all elements of claim 44. Fleming further shows receiving a request to modify the allowance for the recipient (col. 14, lines 58-60).

As to claim 47, Fleming shows all elements of claim 46. Fleming further shows modifying an allowance comprising receiving a request to modify the allowance increment to a second allowance increment (col. 14, lines 55-60).

As to claim 56, Fleming shows a method for facilitating the transfer of money to one or more recipient accounts associated with one or more recipients, the money being made available for use by the recipients (col. 10, lines 20-26 and 43-46), comprising:

maintaining a list of one or more recipient accounts (col. 15, lines 56-58), each of the recipient accounts having an associated allowance increment indicating an amount of money to be transferred to the recipient account on a periodic basis (col. 10, lines 23-26); and

automatically transferring the allowance increment associated with each of the recipient accounts to the corresponding recipient account on a periodic basis (col. 10., lines 43-46).

Applicant's recitation of "for purchase of goods over a network" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

The recitation "whereby the recipients are thereafter able to purchase one or more items over the network using the money from the allowance increments that have been transferred to the recipient accounts associated with the recipients" recites a desired result of the method step of transferring an amount of money to an account.

Accordingly, the recitation is not afforded patentable weight. See *Minton v. Nat 'l*

Ass'n of Securities Dealers, Inc., 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003).

As to claim 62, Fleming shows a computer readable medium including at least executable computer program code tangible stored thereon, said computer readable medium comprising:

- computer program code (col. 17, lines 2-4, 27-36 and Fig 6); and
- computer program code (col. 9, line 54 through col. 10, line 27).

Applicant's recitation of "for transferring an amount of money to a recipient account associated with a recipient" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Further, Applicant's recitations of "for receiving an allowance request from a user indicating a request to set up an allowance for a recipient, the allowance representing an amount of money being made available by the user to the recipient " and "for receiving an allowance increment or selection of an allowance increment, the allowance increment indicating an amount of money to be transferred to the recipient account on a periodic basis" in the body of the claim are also not accorded any patentable weight because they merely recite the purpose of a process or the intended use of a structure.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming (U.S. 5,953,710) in view of official notice.

As to claim 13, Fleming shows all elements of claim 1.

Fleming does not specifically show an address of the recipient not stored in association with the recipient account.

Examiner takes official notice that the storage of information related to an account is well known in the art. Further, the absence of certain information from the stored data is also a well known measure, for example, to protect a recipient's privacy.

It would have been obvious to one of ordinary skill in the art to have modified the invention disclosed by Fleming in order to take advantage of alternate design possibilities regarding the information that is considered as not necessary for different types of accounts.

7. Claims 2, 3, 19, 20 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming (U.S. 5,953,710) in view of Herman (WO/0043852).

As to claim 2, Fleming shows all elements of claim 1.

Fleming does not specifically show a monthly allowance, and the allowance increment to be transferred to the recipient account on a monthly basis.

Herman shows a monthly allowance, and the allowance increment is to be transferred to the recipient account on a monthly basis (Fig. 7B).

It would have been obvious to one of ordinary skill in the art to have modified the invention of Fleming by the method taught in Herman in order to further accommodate user's choice of the time in which to make money available.

As to claim 3, Fleming in view of Herman shows all elements of claim 2. Herman further teaches an allowance request received after a specific date in the month and the allowance increment transferred to the recipient account at the beginning of the next month (pg. 9, lines 28-30).

It would have been obvious to one of ordinary skill in the art to have modified the invention of Fleming by the method taught in Herman in order to further accommodate user's choice of the time in which to transfer money and to make it available to a recipient.

As to claim 19, Fleming shows all elements of claim 18.

Fleming does not specifically show creating the recipient account that comprises receiving an email address of the recipient and receiving a temporary password of the recipient.

Herman teaches creating the recipient account that comprises receiving an email address of the recipient and receiving a temporary password of the recipient (pg. 9, lines 3-10).

It would have been obvious to one of ordinary skill in the art to have modified the invention disclosed by Fleming by the method taught in Herman in order to provide identification and access to specified accounts (pg. 9, lines 8-9).

As to claim 20, the combination of Fleming and Herman shows all elements of claim 19. Fleming further shows receiving a name of the recipient (Fig. 2, elements 22 and 28 in conjunction with Fig. 3, elements 12(a) and 22, showing communication of information).

As to claim 38, Fleming shows all elements of claim 1. Fleming further shows communications through systems that allow the user to input and receive information including personal computer systems (col. 9, lines 60-63) and telecommunications link (Fig. 1, element 12(b)).

Fleming does not specifically show the allowance request initiated via an allowance hypertext link.

Herman shows the allowance request initiated via an allowance hypertext link (pg. 7, lines 23-25; pg. 8, lines 14-19 and pg. 9, line 24 through page 10, line 10).

It would have been obvious to one of ordinary skill in the art to have modified the method disclosed in Fleming by the method taught in Herman in order to communicate information through a well known and widely used communication tool.

Response to Amendment

8. In response to Applicant's Arguments/Remarks filed on 12/12/2007, Examiner's objection to claim 43 for minor informalities is withdrawn because Applicant has corrected spelling as noted.

9. Responsive to Applicant's amendment of claim 23 in response to a rejection under 35 U.S.C. 112, second paragraph, for lack of clarity, Examiner accordingly withdraws that rejection because Applicant revised claim language to overcome the rejection.

10. Responsive to Applicant's amendment of claim 62 in response to a rejection under 35 U.S.C. 112, second paragraph, for lack of antecedent basis, Examiner accordingly withdraws that rejection.

11. Examiner further acknowledges Applicant's amendments to claims 23, 43, 56 and 62.

Response to Arguments

12. Applicant's arguments filed 12/12/2007 have been fully considered but they are not persuasive.

13. Regarding the rejection of claim 62 under 35 USC 101, Applicant has amended to ensure executable code on a tangible medium. However, Examiner reiterates, that in light of the specification, the scope of the terms "medium and media" include carrier waves, a nonstatutory subject matter. Accordingly, the previous rejection citing 35 USC 101 is maintained.

14. Regarding claim 1, Applicant argues Fleming fails to teach or suggest the allowance request recited in claim 1. Examiner respectfully disagrees. As previously noted, Fleming recites a parent completing a transaction to increase a child's allowable credit limit (col. 10, lines 43-47), that amount requested being the amount of a set allowance, which is an amount of money being made available to the recipient, i.e., the child (col. 14, lines 45-50). Accordingly, Examiner's rejection remains.

15. Further, regarding claim 1, Applicant argues that Fleming also fails to teach or suggest the allowance increment recited in claim 1 which indicates "an amount of money to be transferred to the recipient account on a periodic basis." Examiner refers applicant to arguments presented above in paragraph 13, showing an increment in the amount of the allowance on a regular basis. Examiner maintains the previous rejection.

16. Further, regarding claim 1, Applicant argues that the recitation "the allowance representing an amount of money being made available by the user to the recipient for purchase of one or more items over the network" was not afforded patentable weight, but that it should be. Examiner notes that only the recitation "for purchase of one or more items over the network" was not afforded patentable weight because the recitation constitutes an intended use that does not change the overall performance of the method

steps. The intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Accordingly, Examiner maintains previous arguments.

17. As to Applicant's arguments that Fleming fails to teach or suggest maintaining a list of recipient accounts that are receiving an allowance of money, Examiner respectfully disagrees. Applicant is referred to Fleming, which shows maintaining a list of one or more recipient accounts, each of the recipient accounts having an associated allowance increment indicating an amount of money to be transferred to the recipient account on a periodic basis (col. 15, lines 56-58 in conjunction with col. 14, lines 45-50, that further presents periodically increasing an amount of money available in an account, and col. 10, lines 23-26, for a parent to select a child to which a request to increase an amount available in an account applies). Accordingly, Examiner's previous rejection remains.

18. Regarding Applicant's challenge to Official Notice taken regarding storage (or not storage) of certain information in a recipient account, Examiner submits the following reference:

- Maritzen et al. (U.S. 2002/0095386) showing storage of account information that does not include an address.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon, can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
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